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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
| 10/553,059 | 10/24/2006 | Adalbert Matyko | 4529-6 | 3838 |
| 23117 7590 04/11/2007 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203 | | | EXAMINER MERLINO, ALYSON MARIE | |
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| SHORTENED STATUTORY PERIOD OF RESPONSE | | MAIL DATE | DELIVERY MODE | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/553,059

Applicant(s)

MATYKO ET AL.

Examiner

Alyson M. Merlino

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 October 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>12 October 2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

2. The drawings are objected to because reference character 66 in Figure 6 is shown denoting a door and a window. Specifically, reference character 66 on the window (left portion of figure) should be changed to 68, as detailed in the specification within the second full paragraph on page 7. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet

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submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. **Claim 6 is rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, claim 6 details a first and second channel, but it is unclear which channel is discussed in claim 1, therefore, the claim will be examined as best understood until further clarification from applicant.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. **Claims 1-4, 6, 7, and 12 are rejected** under 35 U.S.C. 102(b) as being anticipated by Markbreit (WO 01/29353 A1).
7. **In regards to claim 1**, Markbreit discloses a multipoint lock (Figure 1) having a locking mechanism 18 adapted to selectively retract and extend at least one locking

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element 40, 42 relative to an elongate housing 12 (Page 2, lines 1-4). Markbreit further discloses that the locking mechanism includes an arm 34, (all linkage between portions 34 and 38, Figures 1 and 4) pivotally attached to a lock actuator 20 and constrained to travel in a channel 88 (above and below lock actuator 20), 74 formed in a linkage device 80, 72 linked to said at least one locking element (Figures 4, 6, 9, and 10). The arm is at a first limit of travel (position of arm in channel 88, Figure 6, and position of arm in channel portion 74B, Figure 9) in the channel and is pivoted in a first angular direction with respect to the lock actuator (movement of arm from position in Figure 4 to position in Figure 6) so as to be geometrically locked at the first limit of travel (Figure 6) when the lock actuator is in a first position (Figures 6 and 7).

8. **In regards to claim 2**, Markbreit discloses that when the lock actuator is in a second position (Figures 4 and 5) the arm is at a second limit of travel (position of arm in channel, Figure 4) in the channel and is pivoted in a second angular direction (movement of arm from position in Figure 6 to position in Figure 4) with respect to the lock actuator so as to be geometrically locked at the second limit of travel (Figures 4 and 5).

9. **In regards to claim 3**, Markbreit discloses that when the lock actuator is in the first position, at least one locking element is in an extended, locked position relative to the elongate housing (apparent from the extension of linkage 36 connected to arm, Figures 6 and 7).

10. **In regards to claim 4**, Markbreit discloses that when the lock actuator is in the second position, at least one locking element is in a retracted, unlocked position relative

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to the elongate housing (apparent from the retraction of linkage 36 connected to arm, Figures 4 and 5).

11. **In regards to claim 6**, Markbreit discloses that the linkage device includes a stationary linkage element 72 with a first channel 74 formed therein (Figure 9) and a movable linkage element 80 with a second channel 88 formed therein, with the movable linkage element being linked to at least one locking element (Figure 4), and the arm received in both the first and second channels (Figures 4 and 9).

12. **In regards to claim 7**, Markbreit discloses a multipoint lock (Figure 1) having a locking mechanism 18 adapted to selectively retract and extend at least one locking element 40, 42 relative to an elongate housing 12 (Page 2, lines 1-4). The locking mechanism includes an arm 34, 38 pivotally attached to a lock actuator 20 and constrained to travel in a channel 88, 74 formed in a linkage device 80, 72 linked to said at least one locking element (Figures 4, 6, 9, and 10). Markbreit further discloses that the channel includes at least two terminuses (channel portions where pin 86 of the arm 34 is locked above and below the lock actuator 20, Figure 6, and portion 74B of channel 74, Figure 9) at which the arm is in a locked position and at least one locking element is at an extended position protruding out of the elongate housing (Figure 6). Markbreit also discloses that at least one locking element 42 extends further out of the elongate housing with the arm at one of the terminuses than at another of the terminuses (Figure 1).

13. **In regards to claim 12**, Markbreit discloses that the arm is geometrically locked in at least on of said terminuses (Figures 4, 6, and 9).

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

16. **Claims 8 and 11 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Markbreit (WO 01/29353 A1) in view of Hautau (EP 1061215 A2).

17. Markbreit discloses the multipoint lock as applied to claim 7 above, having a channel that includes an inner terminus (portion where pin 86 is locked, Figure 4) and an outer terminus 88B that is closer to an end of the elongate housing than the inner terminus (Figure 4), but fails to disclose that the channel includes at least one intermediate terminus. Hautau teaches a multipoint lock (Figure 1b) having a channel 35, 35b with at least one intermediate terminus (slanted portion of channel where arm is locked in the position shown in Figure 3). Since the inclusion of a more severe slanted

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portion to the channel disclosed by Markbreit would only require a change in shape of the channel, it would have been obvious to one of ordinary skill in the art at the time the invention was made to change the shape of the channel disclosed by Markbreit to include an intermediate terminus, as taught by Hautau, that would allow the arm to be locked at an intermediate position between the first and second positions of the latch bolt in order to enhance the versatility of the lock. Furthermore, the inclusion of an intermediate terminus would allow the arm to be geometrically locked at a position along the channel disclosed by Markbreit.

18. **Claims 9 and 10 rejected** under 35 U.S.C. 103(a) as being unpatentable over Markbreit (WO 01/29353 A1) in view of Hautau (EP 1061215 A2) in further view of Sandrock (US-4282769).

19. Markbreit in view of Hautau discloses the multipoint lock as applied to claims 1-4, 6-8, 11, and 12 above. Specifically, Hautau teaches the inclusion of at least one intermediate terminus between the inner and outer terminuses of the channel disclosed by Markbreit through which the arm travels. Markbreit in view of Hautau lacks a blocking element having first and second positions in which the element blocks certain portions of the channel so that the arm is prevented from traveling through those portions. Sandrock teaches a blocking element 31 that has a first position (Figure 2) and a second position (Figure 3), and is movable into a position for blocking an arm 20 from traveling throughout certain portions of channel 10. Since the inclusion of a blocking element is well known in the art, it would have been obvious to one of ordinary skill at the time the invention was made to include a blocking element for preventing the

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arm from movement through certain portions of the channel disclosed by Markbreit in order to enhance the versatility of the lock for various door sizes.

20. **Claims 1-5, 7, 8, 11, and 12 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Hautau (EP 1061215 A2).

21. The rejection of claims 7, 8, 11, and 12 in view of the prior art reference Hautau would be similar to that of the rejection of the same claims in view of Markbreit above, therefore, the rejection of claims 7, 8, 11, and 12 in view of Hautau will not be detailed below.

22. **In regards to claim 1**, Hautau discloses a multipoint lock (Figure 1b) having a locking mechanism 16, 25, 26, 30 adapted to selectively retract and extend at least one locking element 8, 10 relative to an elongate housing 12 (Page 2, lines 1-4). Hautau further discloses that the locking mechanism includes an arm 30 pivotally attached to a lock actuator 16 and constrained to travel in a channel 35, 35b in the housing that is linked to at least one locking element. The arm is at a first limit of travel (position of arm in channel 35, Figure 2) in the channel and is pivoted in a first angular direction with respect to the lock actuator (movement of arm from position in Figure 4 to position in Figure 2) so as to be geometrically locked at said first limit of travel (Figure 2) when the lock actuator is in a first position (Figures 2). Although Hautau fails to disclose that the channel 35, 35b is formed in a linkage device separate from the housing, it would have been obvious to one of ordinary skill in the art at the time the invention was made to place the channel in a linkage device that is separate from the housing since it has been held that constructing a formerly integral structure in various elements involves only

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routine skill in the art. Furthermore, prior art reference of record Markbreit teaches that it is well known in the art to have a separate linkage device 80 containing a channel 88 within a multipoint lock.

23. **In regards to claim 2**, Hautau discloses that when the lock actuator is in a second position (Figure 4) the arm is at a second limit of travel (position of arm in channel, Figure 4) in the channel and is pivoted in a second angular direction (movement of arm from position in Figure 2 to position in Figure 4) with respect to the lock actuator so as to be geometrically locked at the second limit of travel (Figure 4).

24. **In regards to claim 3**, Hautau discloses that when the lock actuator is in the first position, at least one locking element is in an extended, locked position relative to the elongate housing (Figures 2 and 2a).

25. **In regards to claim 4**, Hautau discloses that when the lock actuator is in the second position, at least one locking element is in a retracted, unlocked position relative to the elongate housing (Figures 4 and 4a).

26. **In regards to claim 5**, although Hautau discloses that the lock actuator includes a handle 4 instead of a cylinder lock, in meshed engagement with a toothed rack 25, 26 to which the arm is pivotally attached (Figure 2), it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the handle actuator of the lock actuator with a cylinder lock since a cylinder lock is a well known rotating actuator in order to enhance the security of the multipoint lock.

Conclusion

27. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Amgar (US-4362034) discloses a multipoint lock having a channel 44 with an intermediate terminus created by portion 44b.

b. Klem et al. (US-4297914) discloses a blocking element (Figure 3) for blocking the movement of arm 12 through channel 24.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alyson M. Merlino whose telephone number is (571) 272-2219. The examiner can normally be reached on Monday through Friday, 7:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571) 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AM *AM*
April 5, 2007



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SUPERVISORY PATENT EXAMINER